

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

ePLUS INC.,)	
)	
Plaintiff,)	Civil Action No. 3:09-CV-620 (REP)
)	
v.)	
)	
LAWSON SOFTWARE, INC.,)	
)	
)	
)	
Defendant.)	

**DECLARATION OF JAMES D. CLEMENTS IN SUPPORT OF MOTION TO STRIKE
PORTIONS OF LAWSON’S EXPERT REPORT AND EXCLUDE FROM THE
CONTEMPT HEARING IMPROPER OPINIONS AND FOR EXPEDITED BRIEFING**

I, James D. Clements, declare as follows:

1. I am an associate at Goodwin Procter LLP, counsel for Plaintiff ePlus Inc. (“ePlus”) in this proceeding. I submit this declaration in support of ePlus’s motion to strike portions of Defendant’s expert report and exclude from the contempt hearing improper opinions and arguments not disclosed in Defendant’s response to Interrogatory No. 5 and prohibited by *TiVo v. Echostar*.

2. I have personal knowledge of the facts stated herein and, if called as a witness, could and would testify competently hereto.

3. Attached as Exhibit 1 is an annotated copy of the Rebuttal Expert Report of Benjamin F. Goldberg, Ph.D. Concerning Defendant’s Alleged Contempt of the Court’s Permanent Injunction dated January 20, 2012 (Dkt. No. 868).

4. Attached as Exhibit 2 is a true and accurate copy of excerpts from the transcript of the hearing held in this matter on September 15, 2011 (Dkt. No. 805).

5. Attached as Exhibit 3 is a true and accurate copy of excerpts from the transcript of the hearing held in this matter on November 8, 2012 (Dkt. No. 845).

6. Attached as Exhibit 4 is a true and accurate copy of excerpts from the transcript of the hearing held in this matter on July 28, 2010 (Dkt. No. 393).

7. Attached as Exhibit 5 is a true and accurate copy of excerpts from the transcript of the deposition of Benjamin F. Goldberg, Ph.D., dated February 2, 2012.

8. Attached as Exhibit 6 is a true and accurate copy of Plaintiff's Exhibit PX-1, U.S. Patent No. 6,023,683.

9. Attached as Exhibit 7 is a true and accurate copy of excerpts from the transcript of the jury trial held in this matter from January 4 to January 27, 2011 (Dkt. Nos. 644-696).

10. Attached as Exhibit 8 is a true and accurate copy of Plaintiff's Exhibit PX-3, U.S. Patent No. 6,505,172.

11. Attached as Exhibit 9 is a true and accurate copy of Plaintiff's Exhibit PX-2, U.S. Patent No. 6,055,516.

12. Attached as Exhibit 10 is a true and accurate copy of excerpts from the transcript of the hearing held in this matter on January 22, 2010 (Dkt. No. 161).

13. Attached as Exhibit 11 is a true and accurate copy of excerpts from the transcript of the deposition of Dale A. Christopherson dated December 19, 2011.

14. Attached as Exhibit 12 is a true and accurate copy of excerpts from the transcript of the deposition of Keith D. Lohkamp dated January 6, 2012.

15. Attached as Exhibit 13 is a true and accurate copy of excerpts from the Expert Report of Brooks L. Hilliard Relating to Patent Validity dated June 9, 2010.

16. Attached as Exhibit 14 is a true and accurate copy of excerpts from the Final Jury Instructions in this matter.

17. Attached as Exhibit 15 is a true and accurate copy of a letter from Daniel McDonald to Scott Robertson dated May 6, 2011.

18. Attached as Exhibit 16 is a true and accurate copy of a letter from Daniel McDonald to Scott Robertson dated June 10, 2011.

19. Attached as Exhibit 17 is a true and accurate copy of Defendant Lawson Software, Inc.'s Answers to Plaintiff *ePlus Inc.*'s First Set of Interrogatories for Contempt Proceedings dated October 7, 2011.

20. Attached as Exhibit 18 is a true and accurate copy of a letter from Scott Robertson to the Honorable Dennis W. Dohnal, Magistrate Judge, dated October 11, 2011.

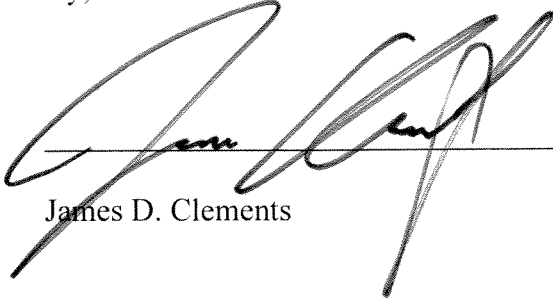
21. Attached as Exhibit 19 is a true and accurate copy of an email from Daniel Thomasch to Scott Robertson dated October 17, 2011.

22. Attached as Exhibit 20 is a true and accurate copy of Defendant Lawson Software, Inc.'s Second Supplemental Answers to Plaintiff *ePlus Inc.*'s First Set of Interrogatories for Contempt Proceedings dated January 30, 2012.

23. Attached as Exhibit 21 is a true and accurate copy of excerpts from the transcript of the deposition of Todd Dooner dated December 21, 2012.

24. Attached as Exhibit 22 is a true and accurate copy of excerpts from Plaintiff's Exhibit PX-4, the file history of U.S. Patent No. 6,023,683.

I declare under penalty of perjury that the foregoing is true and correct. Executed at
Boston, Massachusetts, this 7th day of February, 2012.



James D. Clements